

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

FILED  
JAN 13 2006  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

**MARY B. SMITH**  
**Plaintiff**

**CIVIL ACTION NO.**  
**04CV10632MEL**

**v.**

**DAVID C. NICHOLSON et al**  
**Defendants**

**January 10, 2006**

**PLAINTIFF'S MOTION TO COMPEL AND ORDER DISCOVERY**

The Plaintiff, Mary B. Smith, respectfully moves the Court to compel Defendant, David C. Nicholson to produce audio tapes of witnesses taken by Charles F. Salyards, in preparation of a written report, and order that the deposition of Mr. Salyards be taken.

Counsel for Defendants have produced this report, and used it, or allowed it to be used, as an exhibit in a number of depositions of witnesses. The Plaintiff represents to this Court that those actions by the Defendants have waived any attorney/client or work product privilege to this report and the underlying audio tapes which formed the basis for this report.

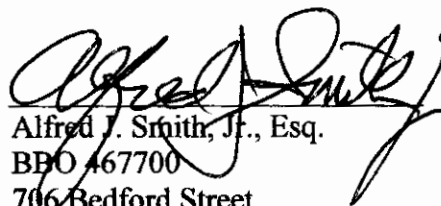
Since discrepancies have arisen between the contents of this report, and the sworn testimony of witnesses, the Plaintiff has requested that the Defendants produce these audio tapes, or transcripts of their contents, and to allow the deposition of Mr. Salyards to be taken. The Defendants have produced a transcript of the Plaintiff's interview by Mr. Salyards. However, the Defendants have refused to comply with the requests for the audio tapes, or transcripts of

those tapes, for the other witnesses.

WHEREFORE, the Plaintiff respectfully moves this Court to compel the production of these audio tapes by Mr. Salyards, and/or the Defendants, and further to order that the deposition of Charles F. Salyards be taken, on the earliest possible date.

THE PLAINTIFF,  
MARY B. SMITH

By:



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**ORDER**

The foregoing Motion, having been presented to the Court, is hereby:

GRANTED/DENIED

BY THE COURT

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JUDGE/CLERK